

### § 385.15

the provisions of paragraph (b)(2) of this section); provided, however, that an additional 90 days shall be available each time the sound recording is re-released by the record company in a remastered form or as part of a compilation with a different set of sound recordings than prior compilations that include that sound recording;

(2) In the case of interactive streaming through a service devoted to one featured artist, the interactive streams subject to this paragraph (c) of this section of a particular sound recording are made or authorized by the record company on no more than one official artist site per artist and are recordings of that artist; and

(3) In the case of interactive streaming through a service that is not limited to a single featured artist, all interactive streaming on such service (whether eligible for the promotional royalty rate or not) is limited to sound recordings of a single record company and its affiliates and the service would not reasonably be considered to be a meaningful substitute for a paid music service.

(d) *Interactive streaming of clips.* In addition to those in paragraph (a) of this section, the provisions of this paragraph (d) apply to interactive streaming conducted or authorized by record companies under the promotional royalty rate of segments of sound recordings of musical works with a playing time that does not exceed the greater of:

(1) 30 seconds, or

(2) 10% of the playing time of the complete sound recording, but in no event in excess of 60 seconds. Such interactive streams may be made or authorized by a record company under the promotional royalty rate without any of the temporal limitations set forth in paragraphs (b) and (c) of this section (but subject to the other conditions of paragraphs (b) and (c) of this section, as applicable). For clarity, this paragraph (d) is strictly limited to the uses described herein and shall not be construed as permitting the creation or use of an excerpt of a musical work in violation of 17 U.S.C. 106(2) or 115(a)(2)

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or any other right of a musical work owner.

[74 FR 4529, Jan. 26, 2009, as amended at 74 FR 6834, Feb. 11, 2009]

### § 385.15 [Reserved]

### § 385.16 Reproduction and distribution rights covered.

A compulsory license under 17 U.S.C. 115 extends to all reproduction and distribution rights that may be necessary for the provision of the licensed activity, solely for the purpose of providing such licensed activity (and no other purpose).

### § 385.17 Effect of rates.

In any future proceedings under 17 U.S.C. 115(c)(3)(C) and (D), the royalty rates payable for a compulsory license shall be established de novo.

## PART 386—ADJUSTMENT OF ROYALTY FEES FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS

Sec.

386.1 General.

386.2 Royalty fee for secondary transmission by satellite carriers.

AUTHORITY: 17 U.S.C. 119(c), 801(b)(1).

SOURCE: 75 FR 53198, Aug. 31, 2010, unless otherwise noted.

### § 386.1 General.

This part 386 adjusts the rates of royalties payable under the statutory license for the secondary transmission of broadcast stations under 17 U.S.C. 119.

### § 386.2 Royalty fee for secondary transmission by satellite carriers.

(a) *General.* (1) For purposes of this section, *Per subscriber per month* shall mean for each subscriber subscribing to the station in question (or to a package including such station) on the last day of a given month.

(2) In the case of a station engaged in digital multicasting, the rates set forth in paragraph (b) of this section shall apply to each digital stream that a satellite carrier or distributor retransmits pursuant to 17 U.S.C. 119, provided however that no additional royalty shall be paid for the carriage of any material

related to the programming on such stream.

(b) *Rates*—(1) *Private home viewing*. The rates applicable to Satellite Carriers' carriage of each broadcast signal for private home viewing shall be as follows:

(i) 2010: 25 cents per subscriber per month (for each month of 2010);

(ii) 2011: 25 cents per subscriber per month;

(iii) 2012: 26 cents per subscriber per month;

(iv) 2013: 27 cents per subscriber per month;

(v) 2014: The 2013 rate, adjusted for the amount of inflation as measured by the change in the Consumer Price Index for all Urban Consumers All Items from October 2012 to October 2013.

(2) *Viewing in commercial establishments*. The rates applicable to Satellite Carriers' carriage of each broadcast signal for viewing in commercial establishments shall be as follows:

(i) 2010: 50 cents per subscriber per month (for each month of 2010);

(ii) 2011: 51 cents per subscriber per month;

(iii) 2012: 53 cents per subscriber per month;

(iv) 2013: 54 cents per subscriber per month;

(v) 2014: The 2013 rate, adjusted for the amount of inflation as measured by the change in the Consumer Price Index for all Urban Consumers All Items from October 2012 to October 2013.

[75 FR 53198, Aug. 31, 2010, as amended at 75 FR 75624, Dec. 6, 2010; 76 FR 74704, Dec. 1, 2011; 77 FR 70374, Nov. 26, 2012]